

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DARIUS SPRUCE and MIA SPRUCE,

Plaintiffs,

No. 13-10711

v.

District Judge Stephen J. Murphy, III  
Magistrate Judge R. Steven Whalen

CHASE BANK and CCO MORTGAGE,

Defendants.

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**ORDER**

Before the Court is Plaintiffs' Motion to Amend Complaint to Add Defendant Fannie Mae [Doc. #10].

Despite the general rule of liberality with which leave to file amended complaints is to be granted, *see* Fed.R.Civ.P. 15(a) , the Sixth Circuit has held that when a proposed amended complaint would not survive a motion to dismiss, the court may properly deny the amendment. *Neighborhood Development Corp. v. Advisory Council on Historic Preservation*, 632 F.2d 21, 23 (6<sup>th</sup> Cir. 1980); *Thiokol Corporation v. Department of Treasury*, 987 F.2d 376 (6<sup>th</sup> Cir. 1993).

Plaintiffs allege that the Federal National Mortgage Association ("Fannie Mae") was the agent for Defendant JPMorgan Chase Bank, N.A. ("Chase"). However, apart from the bare legal conclusion, they allege no facts in support of that claim such that a complaint against Fannie Mae would survive *Iqbal*. *See Jaafar v. Homefield Financial, Inc.*, 2009 WL 3602091, \*2 (E.D. Mich. 2009)(Duggan, J.).

Moreover, even if Fannie Mae did have an agency relationship with Chase, its liability would be no greater than that of its principal. I have filed a separate Report and

Recommendation recommending that Chase's motion for judgment on the pleadings be granted, and that Chase be dismissed based on Plaintiffs' failure to state a claim. There being no plausible claim against Chase, there can be no plausible claim against Fannie Mae.

Accordingly, because the requested amendment would be futile, Plaintiffs' Motion to Amend Complaint [Doc. #10] is DENIED.

IT IS SO ORDERED.

Date: January 16, 2014

s/R. Steven Whalen  
R. STEVEN WHALEN  
UNITED STATES MAGISTRATE JUDGE

I hereby certify that a copy of the foregoing document was sent to parties of record on January 16, 2014, electronically and/or by U.S. mail.

s/Michael Williams  
Case Manager to the  
Honorable R. Steven Whalen